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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN 18 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Review of the Commission's)
Rules Governing the Low Power)
Television Service)

MM Docket No. 93-114
RM-7772

JOINT COMMENTS OF MSTV AND NAB

The Association for Maximum Service Television, Inc.

("MSTV")^{1/} and the National Association of Broadcasters

("NAB")^{2/} hereby submit these joint comments in response to

A. Modification of LPTV Facilities

MSTV and NAB generally support the Commission's efforts to streamline its processing procedures and lessen the burden these procedures impose on both the Commission and applicants. The Notice sets forth a number of proposals that advance this goal in an appropriate, flexible manner.^{3/} The Commission must act carefully, however, to ensure that its efforts in maximizing LPTV processing efficiency do not undermine a central purpose of its application procedures: the prevention of interference caused by this secondary service to full-service broadcast stations. MSTV and NAB are concerned that the Notice's proposal regarding LPTV modification applications may do just that.

In processing LPTV applications, the Commission, as in other services, classifies applications to modify existing

notice requirements and will not be acted upon by the Commission until the 30-day period for filing petitions to deny has passed. See 47 U.S.C. § 309; 47 C.F.R. §§ 73.3580(g); 74.732(d). The D.C. Circuit has characterized the decision as to whether a modification to a station license constitutes a "major change", and thus subject to the numerous procedural requirements set forth in the Communications Act and the Commission's Rules, as "a decision of great significance." National Association for Better Broadcasting v. FCC, 849 F.2d 665, 670 (D.C. Cir. 1988).

The Commission presently classifies as a major modification any change in frequency of an LPTV station's output channel. In addition, LPTV applications generally are considered major if they seek to change operating power, transmitting antenna system, antenna height, or antenna location by more than 200 meters, unless the resulting signal range of the proposed LPTV facility would not increase in any horizontal direction. In such a case, the Commission will treat the application as minor provided the proposed LPTV station's modified protected service contour lies completely within its existing, unmodified service contour. Id. at § 73.3572(a). In adopting this definition of minor change the Commission intended to "facilitate maintenance type changes and changes to eliminate interference without creating new interference or preclusion." Establishment of LPTV Service, 53 R.R.2d 1267, at ¶ 46 (1983).

The Notice now proposes to expand significantly the type of LPTV facility modifications that qualify as minor changes. No longer would a minor change be limited to the LPTV station's existing service contour.^{4/} Instead, by filing a "minor" modification application an LPTV station could expand its existing footprint, in some cases substantially, so long as its modified footprint falls within a "bounding circle" centered at the existing antenna site coordinates, with the radius of this circle equal to the largest distance from that site to the station's existing contour. The Notice provides the following illustration of this proposal: "suppose a licensee wished to move its antenna site from point A to point B, and that the existing protected contour extended a maximum distance of 15 kilometers from point A. The changes involved in moving the facility to point B would be considered minor changes, provided, the new protected contour would be contained within a circle centered at point A (the old site) and having a radius of 15 kilometers (the maximum distance between the original site and protected contour)." Notice at ¶ 16 (emphasis in original).

MSTV and NAB believe such LPTV facility changes would be minor in name only, given the significant potential for interference to full-service stations they involve. The proposed bounding circle, uniformly defined by an LPTV

^{4/} The Notice's proposal would also apply to television translators and television booster stations.

station's largest contour radius, would encompass areas that never before received the LPTV station's signal, and that may involve adverse effects on full-service television operations. These areas are likely to be large in the case for LPTV stations, many of which use highly directionalized antennas and thus have widely divergent contour radii. This high degree of directionalization is, in almost every instance, grounded in the need to avoid interference to full-service broadcast stations and previously authorized LPTV licensees. Expansion into new service areas, even those within the bounding circle, thus carries with it a high risk of causing interference to other licensees. Indeed, this is an invitation to an LPTV station to swing its current directionalized signal in any direction desired, or, subject to transmitter power output limitations, to radiate omnidirectionally, serving the entire bounding circle as defined in the Notice. The interference potential to full-service stations, should LPTV stations be given this latitude, would be substantial.

It is precisely such facility changes that warrant the procedural safeguards and comprehensive review called for by major change status. While under the Commission's proposal a "minor" application would still be required to demonstrate noninterference based on predicted levels of interference, Notice at ¶ 16, actual field strengths of both full-service and LPTV stations often differ substantially from the

predicted levels utilized to evaluate applications. An application to modify an LPTV station's facilities may indicate noninterference based on the predicted model when in reality the proposed operations would cause significant interference to a full-service station given the actual terrain and other conditions involved.^{5/} As the Commission stated in rejecting previous requests to classify certain facility changes as minor, including the relocation of an LPTV station to new site because of nonavailability of the authorized site, such changes "might permit additional preclusion or cause actual interference, due to local factors, even though applications for such changes might meet our general protection standards." Establishment of LPTV Service, 53 R.R.2d at ¶ 46.

MSTV and NAB consequently oppose the Notice's proposal to expand the definition of minor LPTV facility

^{5/} For example, LPTV station W23AT was granted authorization in November 1992 to relocate to the Sears Tower in downtown Chicago pursuant to an application that met (although barely) the Commission's minimal interference protection standards in regard to a co-channel full-service station in Rockford, Illinois, WIFR(TV). The terrain between Chicago and Rockford, however, is significantly more level than is assumed by the Commission's standard method of calculating predicted signal strengths. When actual conditions are taken into account, the 36 dBu contour of W23AT extends significantly farther, creating distinct areas of predicted interference inside WIFR(TV)'s Grade B contour. Indeed, field tests confirmed interference from W23AT in areas 60 miles from Chicago. After W23AT failed to take steps to eliminate this interference, Benedek Broadcasting of Illinois, Inc., the licensee of WIFR(TV), was compelled to file a complaint with the Commission on May 10, 1993.

changes.^{6/} LPTV station modifications that would increase the signal range of the station in any horizontal direction should continue to be classified as a major change under the Commission's Rules, requiring the applicant to comply with the notice requirements that come with such status and affording interested parties full opportunity to file petitions to deny. These measures are necessary to provide the Commission and the public with all pertinent information regarding proposed LPTV facility changes that by definition pose a significant danger

existing full-service stations required to apply for and construct their ATV channels six years thereafter. Memorandum Opinion and Order, MM Docket No. 87-268, FCC 92-438, at ¶¶ 3-5 (adopted Sept. 17, 1992; released Oct. 16, 1992). Until the standard is selected and documented, the interference characteristics of this new technology will not be fully known. Given this, and the enormous challenge in providing each existing full-service broadcast station an ATV channel with a suitable service area, the Commission must take even greater care in ensuring that its LPTV processing procedures safeguard against LPTV interference to full-service broadcasters.

B. Call Signs

The Commission proposes in the Notice, at ¶ 22, to provide for the assignment of four-letter call signs to licensed LPTV stations. The Community Broadcasting Association ("CBA") has urged the Commission to adopt such a proposal because, according to CBA, the five alpha-numeric character call signs presently assigned to LPTV stations are not as readily identifiable to viewers as four-letter call signs.

MSTV and NAB have no objection to this proposal given that there appear to be a sufficient number of available call signs to accommodate LPTV stations.^{2/} However, in

^{2/} The Notice's proposal would extend the eligibility for four-letter call signs to LPTV licensees but not television
(continued...)

implementing this proposal, the Commission should ensure that the assignment of four-letter call signs to LPTV stations does not lead to viewer confusion between this secondary service and full-service broadcast stations. Thus, MSTV and NAB support the Commission's plan to append the suffix "LP" to any four-letter call sign assigned to an LPTV station. As stated in the Notice, an LPTV licensee should not be assigned a call sign currently in use by a full-service broadcaster unless the two stations are commonly owned or the full-service station consents to the LPTV station's use of the call sign. Finally, in the event a full-service station and an LPTV station apply

^{2/}(...continued)

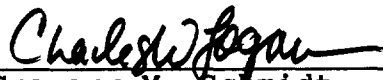
translator stations. MSTV and NAB agree that translator stations should continue to be assigned the five alpha-numeric character call signs.

for the same call sign on the same day, the former should be assigned the requested call sign given its full-service status.

Respectfully submitted,

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